

**REMARKS**

Claims 228-235 and 244-275 are pending in this application. Claims 228, 233, 235, 244-246, 253, 256, 257, 259-263, 265 and 266 are amended and claims 272-275 are added. No new matter is added because the amendments are made to clarify the features recited in the claims, or to correct informalities enumerated in the Office Action or that Applicants discovered in preparation of this response. Claims 225-227 and 236-243 are canceled without prejudice to, or disclaimer of, the subject matter recited in those claims. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 1, makes the September 7, 2006 Restriction Requirement final. The Office Action, in paragraph 2, withdraws from consideration claims 225-227 and 236-243. Claims 225-227 and 236-243 are canceled as drawn to non-elected groups of claims.

The Office Action, in paragraph 3, indicates that the Information Disclosure Statements filed on July 11, 2003 and November 10, 2005 have been considered and made of record. However, reference document 4 listed in the Examiner's acknowledgement of the November 10 Form PTO-1449 does not appear to have been acknowledged. Acknowledgement of all references listed on the November Form 10 PTO-1449, a copy of which is attached, is respectfully requested.

The Office Action, in paragraph 4, rejects claims 253, 265 and 266 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Office Action indicates that the term "said diagnostic device" in claims 253, 265 and 266 lacks antecedent basis. Claims 253, 265 and 266 are amended to obviate the rejection.

Accordingly, reconsideration and withdrawal of the rejection of the enumerated claims under 35 U.S.C. §112, second paragraph, are respectfully requested.

The Office Action, in paragraph 7, rejects claims 228, 230, 232, 233 and 235 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,586,438 to Fahy. The Office Action, in paragraphs 11-16, rejects claims 229, 231, 234 and 244-271 under 35 U.S.C. §103(a) as being unpatentable over Fahy, alone or in combination with one or more of WO 96/29865 to Fahy et al. (hereinafter "Fahy II") or U.S Patents Nos. 6,238,908 to Armstrong et al. (hereinafter "Armstrong"), 5,451,524 to Coble et al. (hereinafter "Coble") and 6,300,875 to Schafer. These rejections are respectfully traversed.

Independent claim 228, and in like manner independent claim 233, recites, among other features, that the organ perfusion apparatus and the transporter are separate units (albeit perfusion may occur in each as set forth in new claims 272-273) and the portable housing is configured (1) to hold the organ independently from either of the organ perfusion apparatus or the transporter, (2) to be received by the transporter for transport of the organ, and (3) to be separately received by the organ perfusion apparatus for perfusion of the organ, and (4) to allow perfusion, storage, and transport of the organ without removal of the organ from the portable housing.

The Office Action asserts that Fahy discloses a system for holding an organ that includes the features of the independent claims. The analysis of the Office Action fails for at least the following reasons. Fahy merely teaches an organ container, a shipping box and a transportation cart. Fahy, however, does not teach, nor would it have suggested at least the above-quoted features as recited in the independent claims. Fahy does not teach, nor does the Office Action assert that it does, a separate organ perfusion apparatus and a transport apparatus. Fahy discloses a shipping box 200 that is detached from a cart 256 and pump assembly 240 for transport on an aircraft and then attached to an identical pump assembly 240 for resumption of perfusion upon arrival at the destination (Fig. 6 and col. 14, lines 10-19). The Office Action construes the cart 256 as both the organ perfusion apparatus and

transporter. As such, Fahy cannot reasonably be considered to suggest at least a separate organ perfusion apparatus and a transport apparatus.

Neither Fahy II, Armstrong, Coble nor Schafer alone, or in any combination, cure the above discussed deficiency in the application of Fahy to the subject matter of the pending claims. Fahy II teaches a perfusion apparatus and method for perfusing organs (Pg. 5, lines 25-26). Armstrong teaches an apparatus and method for growing cells *ex vivo* in a portable cassette used in combination with a processor (Abstract). Coble teaches a tray with *in vitro* chambers for sustaining tissue samples (Abstract). Schafer teaches a GPS system (Abstract). Fahy II, Armstrong, Coble and Schafer alone, or in any combination, do not teach, nor would they have suggested, nor does the Office Action assert that they suggest, a separate organ perfusion apparatus and a transport apparatus. Thus, it cannot reasonably be asserted that any of the applied references alone, or in any combination, would have rendered obvious at least the features discussed above that Fahy does not teach.

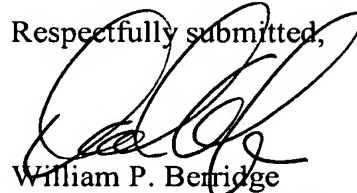
For at least the foregoing reasons, Fahy cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features positively recited in independent claims 228 and 233. None of the other applied prior art references are applied in a manner to overcome the above-identified shortfalls in the application of Fahy to the subject matter of at least independent claims 228 and 233. As such, claims 229-232, 234, 235, 244-271 are also neither taught, nor would they have been suggested, by Fahy, even in combination with the other applied references, for at least the respective dependence of these claims, directly or indirectly, on allowable independent claims 228 and 233, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 228-235 and 244-271 under 35 U.S.C. §102(b) as being anticipated by Fahy, and/or under §103(a) as being unpatentable over any combination of the applied references, are respectively requested.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 228-235 and 244-275 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



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WPB:CJW/tbm

Attachments:

November 10, 2005 PTO-1449  
Petition for Extension of Time

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